

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ERIC ATANASOFF, Derivatively on Behalf of
CLEANSPARK, INC.,
Plaintiff,

v.

ZACHARY K. BRADFORD,
S. MATTHEW SCHULTZ, ROGER P.
BEYNON, LARRY MCNEILL, and THOMAS
L. WOOD,

Defendants,

-and-

CLEANSPARK, INC., a Nevada Corporation,
Nominal Defendant.

Case No.: 2:23-cv-00358-ART-BNW

(Removal from District Court, Clark County,
Nevada, Case No. A-23-866492-C)

ORDER APPROVING

**STIPULATION TO SET BRIEFING
SCHEDULE FOR MOTION TO
DISMISS**

Plaintiff Eric Atanasoff (“Plaintiff”), derivatively on behalf of Nominal Plaintiff CleanSpark, Inc. (“CleanSpark”) and Defendants Zachary K. Bradford, S. Matthew Schultz, Larry McNeill, Thomas L. Wood, Roger P. Beynon (the “Individual Defendants”), and Nominal Defendant CleanSpark (together with the Individual Defendants, “Defendants”) (collectively, with Plaintiff, the “Parties”), by and through their undersigned counsel, hereby enter into the following stipulation and proposed order:

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The Six Derivative Actions

WHEREAS, on May 26, 2021, plaintiff Andrea Ciceri filed a shareholder derivative action on behalf of nominal defendant CleanSpark in the United States District Court for the District of Nevada, captioned *Ciceri v. Bradford, et al.*, Case No. 2:21-cv-01004-GMN-BNW (“*Ciceri*”). *Ciceri* was assigned to the Honorable Gloria M. Navarro; and

WHEREAS, on June 22, 2021, plaintiff Mark Perna filed a second shareholder derivative action on behalf of nominal defendant CleanSpark in the United States District Court for the District of Nevada, captioned *Perna v. Bradford, et al.*, Case No. 2:21-cv-01181-GMN-BNW (“*Perna*”). *Perna* was also assigned to the Honorable Gloria M. Navarro; and

WHEREAS, on June 29, 2021, Judge Navarro consolidated *Ciceri* and *Perna* into a single consolidated action, captioned *In re Cleanspark, Inc. Derivative Litigation*, Case No. 2:21-cv-01004-GMN-BNW (the “Consolidated Action”) and designated the complaint filed in *Ciceri* as the operative complaint pursuant to a Joint Stipulation and Order Consolidating Related Actions and Appointing Co-Lead Counsel (the “Consolidation Order”); and

WHEREAS, on February 24, 2023, plaintiff Nicholas Iraci filed a third shareholder derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court of the State of Nevada in and for Clark County, captioned *Iraci v. Bradford, et al.*, Case No. A-23-866172-C (“*Iraci*”); and

WHEREAS, on February 28, 2023, defendant S. Matthew Schultz (“Schultz”) filed a Petition for Removal and Notice of Petition for Removal, removing *Iraci* to the United States District Court for the District of Nevada. *Iraci* is now pending in the United States District Court for the District of Nevada before the Honorable Jennifer A. Dorsey, captioned *Iraci v. Bradford, et al.*, Case No. 2:23-cv-00315-JAD-NJK. On March 6, 2023, defendant Schultz filed a Notice of Related Case, requesting that *Iraci* be transferred to Judge Navarro and added to the Consolidated Action; and

WHEREAS, on March 1, 2023, plaintiff Eric Atanasoff filed a fourth shareholder derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court

1 of the State of Nevada in and for Clark County, captioned *Atanasoff v. Bradford, et al.*, Case No.
2 A-23-866492-C (“*Atanasoff*”); and

3 **WHEREAS**, on March 7, 2023, defendant Schultz filed a Petition for Removal and
4 Notice of Petition for Removal, removing *Atanasoff* to the United States District Court for the
5 District of Nevada. *Atanasoff* is now pending in this Court. On March 9, 2023, defendant
6 Schultz filed a Notice of Related Case, requesting that *Atanasoff* be transferred to Judge Navarro
7 and added to the Consolidated Action; and

8 **WHEREAS**, on February 21, 2013, plaintiff Brandon Smith filed a fifth shareholder
9 derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court
10 of the State of Nevada in and for Clark County, captioned *Smith v. Bradford, et al.*, Case No. A-
11 23-866051-C (“*Smith*”); and

12 **WHEREAS**, on March 23, 2023, Defendants filed a Petition for Removal and Notice of
13 Removal, removing *Smith* to the United States District Court for the District of Nevada. *Smith* is
14 now pending in the United States District Court for the District of Nevada before Judge Navarro,
15 captioned *Smith v. Bradford, et al.*, Case No. 2:23-cv-00445-GMN-BNW. On March 24, 2023,
16 Defendants filed a Notice of Related Case, requesting that *Smith* be added to the Consolidated
17 Action; and

18 **WHEREAS**, on March 8, 2023, plaintiff Travis France filed a sixth shareholder
19 derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court
20 of the State of Nevada in and for Clark County, captioned *France v. Bradford, et al.*, Case No.
21 A-23-866925-C (“*France*” and together with the *Iraci*, *Atanasoff*, *Smith*, and the Consolidated
22 Action, the “Six Derivative Actions”); and

23 **WHEREAS**, on March 23, 2023, Defendants filed a Petition for Removal and Notice of
24 Removal, removing *France* to the United States District Court for the District of Nevada.
25 *France* is also now pending in the United States District Court for the District of Nevada before
26 Judge Navarro, captioned *France v. Bradford, et al.*, Case No. 2:23-cv-00444-GMN-NJK. On
27 March 24, 2023, Defendants filed a Notice of Related Case, requesting that *France* be added to
28 the Consolidated Action; and

WHEREAS, on March 24, 2023, Defendants filed a Motion to Consolidate in the Consolidated Action, with notifications for *Iraci*, *Atanasoff*, *Smith*, and *France*, requesting that those cases be consolidated with the Consolidated Action before Judge Navarro; and

WHEREAS, between March 30, 2023 and April 6, 2023, plaintiffs in *Iraci*, *Atanasoff*, *Smith*, and *France* all filed motions to remand those actions back to state court; and

WHEREAS, the parties in Six Derivative Actions have the following briefing deadlines:

Date	Case	Task
3/24/2023	<i>Atanasoff</i>	Defendants' Motion to Consolidate Cases
3/24/2023	<i>France</i>	Defendants' Motion to Consolidate Cases
3/24/2023	<i>Iraci</i>	Defendants' Motion to Consolidate Cases
3/24/2023	<i>Smith</i>	Defendants' Motion to Consolidate Cases
3/30/2023	<i>Iraci</i>	Plaintiff's Motion to Remand to State Court
3/31/2023	<i>France</i>	Plaintiff's Motion to Remand to State Court
4/4/2023	<i>Atanasoff</i>	Plaintiff's Motion to Remand to State Court
4/6/2023	<i>Smith</i>	Plaintiff's Motion to Remand to State Court
4/7/2023	<i>France</i>	Plaintiff's Response to Motion to Consolidate
4/7/2023	<i>Atanasoff</i>	Plaintiff's Opposition to Motion to Consolidate
4/11/2023	<i>France</i>	Defendants' Motion to Dismiss
4/13/2023	<i>Iraci</i>	Defendants' Opposition to Motion to Remand
4/14/2023	<i>France</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Consolidate
4/14/2023	<i>Atanasoff</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Consolidate
4/14/2023	<i>France</i>	Defendants' Opposition to Motion to Remand
4/17/2023	<i>Iraci</i>	Plaintiff's Opposition to Motion to Consolidate
4/17/2023	<i>Smith</i>	Plaintiff's Opposition to Motion to Consolidate
4/18/2023	<i>Atanasoff</i>	Defendants' Opposition to Motion to Remand
4/20/2023	<i>Smith</i>	Defendants' Opposition to Motion to Remand to State Court
4/20/2023	<i>Iraci</i>	Plaintiff's Reply to Defendant's Opposition to Motion to Remand
4/21/2023	<i>France</i>	Plaintiff's Reply to Defendant's Opposition to Motion to Remand
4/24/2023	<i>Smith</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Consolidate
4/24/2023	<i>Iraci</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Consolidate
4/24/2023	<i>Iraci</i>	Defendants' Motion to Dismiss
4/25/2023	<i>Atanasoff</i>	Plaintiff's Reply to Defendant's Opposition to Motion to Remand
4/27/2023	<i>Smith</i>	Plaintiff's Reply to Defendant's Opposition to Motion to Remand to State Court
5/5/2023	<i>Atanasoff</i>	Defendants' Motion to Dismiss
5/11/2023	<i>France</i>	Plaintiff's Opposition to Motion to Dismiss (pending court approval)
5/24/2023	<i>Iraci</i>	Plaintiff's Opposition to Motion to Dismiss
6/1/2023	<i>France</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Dismiss (pending court approval)

6/5/2023	<i>Atanasoff</i>	Plaintiff's Opposition to Motion to Dismiss (pending court approval)
6/14/2023	<i>Iraci</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Dismiss
6/26/2023	<i>Atanasoff</i>	Defendants' Reply to Plaintiff's Opposition to Motion to Dismiss (pending court approval)

This Action

WHEREAS, on April 5, 2023, after meeting and conferring extensively, the Parties submitted a joint Stipulation and [proposed] Order Extending Time to Respond to Complaint (the “Stipulation”), agreeing, subject to the Court’s approval, to extend: (i) Defendants’ time to respond to the Complaint until May 5, 2023, (ii) Plaintiff’s time to oppose any motion to dismiss the Complaint that Defendants file until on or before June 5, 2023, and (iii) Defendants’ time to reply in support of any motion to dismiss the Complaint that Defendants file until on or before June 26, 2023; and

WHEREAS, on April 6, 2023, Magistrate Brenda Weksler granted the Stipulation in part and denied it in part, extending Defendants’ time to respond to the Complaint until May 5, 2023, but instructing the Parties to make a separate filing setting forth their proposed briefing schedule for any motion to dismiss that Defendants file pursuant to LR IC 2-2(b); and

WHEREAS, Defendants intend to move to dismiss the Complaint in this Action on or before May 5, 2023; and

WHEREAS, given the crowded briefing schedules in the Six Derivative Actions, the Parties agree to extend the deadline for Plaintiff to oppose any motion to dismiss the Complaint that Defendants file until on or before June 5, 2023; and

WHEREAS, given the crowded briefing schedules in the Six Derivative Actions, the Parties agree to extend the deadline for Defendants to reply in support of any motion to dismiss the Complaint until on or before June 26, 2023.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, as follows:

1. Plaintiff’s deadline to oppose any motion to dismiss the Complaint that Defendants file is extended until on or before June 5, 2023.

2. Defendants’ deadline to reply in support of any motion to dismiss the Complaint

1 that Defendants file is extended until on or before June 26, 2023.

2 3. Other than as agreed herein, the Parties reserve all rights.

3 DATED: April 17, 2023

DATED: April 17, 2023

4 **FOX ROTHSCHILD LLP**

ALDRICH LAW FIRM, LTD.

5 /s/ Colleen E. McCarty

/s/ John P. Aldrich

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11 DATED: April 17, 2023

12 **THE WEISER LAW FIRM, P.C.**

13 /s/ James M. Ficaro

14 JAMES M. FICARO
15 200 Barr Harbor Drive
16 West Conshohocken, PA 19428

17 *Counsel for Plaintiff Eric Atanasoff*

18
19 **IT IS SO ORDERED.**

20 

21 Anne R. Traum
22 United States District Court Judge

23 DATED: April 21, 2023.